IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6840 OF 2006

1. Shri Kashinath Mahadu Shinde)
(deceased) through legal heirs-)

1a. Ranjanabai Kashinath Shinde,)
1b. Vilas Kashinath Shinde,)
1c. Arvind Kashinath Shinde,)

2. Shantaram Mahadu Shinde,)
3. Bhaskar Mahadu Shinde,)
4. Ramesh Ganpat Shinde,)
5. Vishnu Ganpat Shinde,)
6. Govind Mahadu Shinde.)-Petitioners

Versus

1. Govind Laxamn Rajendra,)
2. Shashikant Laxman Rajendra,)
3. Gopal Laxman Rajendra,)
4. Yashwant Laxman Rajendra)
(deaceased) through legal heirs-)

4a. Ganesh Yashwant Rajendra,)
4b. Smt Kusum Yashwant Rajendra,)
4c. Rajshri Sadanand Sahane,)

5. Jayawant Laxman Rajendra,)
6. Tahsildar, Nasik.)-Respondents

Shri V.Z. Kankaria for the Petitioners.

Shri Girish Agarwal for the Respondent Nos.1 to 5.

CORAM : ABHAY S. OKA, J.

DATE ON WHICH SUBUMISSIONS ARE HEARD : MAY 04, 2007.

DATE ON WHICH JUDGMENT IS PRONOUNCED : JUNE 04, 2007.

JUDGMENT:

1. By this Petition under Article 227 of the Constitution of India, the Petitioners have challenged the Judgment and Order dated 30th December, 2002 passed by the learned Additional Tahsildar, Nasik as well as the Judgment and Order dated 31st January, 2006 passed by the learned Additional Commissioner, Nasik Division, Nasik.

2. The Petitioners herein are claiming to be in possession of the land bearing Gut No.2054 admeasuring 3 Hectare and 41 Ares situated at village Adgaon, Taluka and District Nasik. According to the Petitioners, the first to fifth Respondents herein being heirs of late Laxman G. Rajendra are the owners of the said land. According to the case of the Petitioners, their grandfather used to cultivate the said land since 1952-53 as an agricultural tenant thereof and the Petitioners being his heirs are in possession of the said land as the tenants and are cultivating the same.

3. In the year 1986, the Petitioners filed a Crop Cultivation Case No.76 of 1986 before the Tahsildar, Nasik contending that from 1983-84 to 1986-87 the name of the Petitioners should be shown as cultivators of

the said land in the revenue record after making a proper inspection. On the basis of the said Application, the village Talathi filed Form No.14. By order dated 04th January, 1988 the Tahsildar, Nasik directed that names of the Petitioners should be entered in the cultivation column of the revenue record of the said land with effect from 1983-84. The said order was confirmed by the Sub-Divisional Officer, Nasik on 03rd September, 1996 in a revision Application filed by the third Respondent herein. The first and second Respondents filed an Appeal before the Additional Collector, Nasik for challenging the order dated 03rd September, 1996 passed by the Sub-Divisional Officer. The said Appeal was allowed by the impugned order dated 30th December, 2002 and the said order has been confirmed in revision by the learned Additional Commissioner. By the order dated 30th December, 2002, the learned Additional Collector quashed the order passed by the Tahsildar on 04th January, 1988. The learned Additional Collector observed that as the Petitioners are claiming to be agricultural tenants in respect of the said land, before their names are entered in the cultivation column, they must establish their right as tenants by taking out appropriate proceedings under the Bombay

Tenancy and Agricultural Lands Act, 1948. A finding was also recorded that the Form No.14 was forwarded by the Talathi without making proper inquiry as required by the rules.

4. The learned counsel appearing for the Petitioners submitted that there was no reason for the Additional Collector to interfere with the order passed by the Tahsildar. He submitted that a proper inquiry was held as per Rules 30 and 31 of the Maharashtra Land Revenue Record of Rights and Registers (Preparation and Maintenance) Rules, 1971. He submitted that the contesting Respondents did not contest the case before the Tahsildar. He submitted that there is a pending civil suit filed by the contesting Respondents and the said Respondents will take undue advantage of the orders which are impugned in this Petition. He placed reliance on a decision of the learned single Judge of this Court in the case of **Marazban Jehangiriji Patel Vs. State of Maharashtra & Ors. (2004(4) Maharashtra Law Journal Page 682)**. The learned counsel appearing for the contesting Respondents supported the impugned orders.

5. I have carefully considered the submissions.

Perusal of the order dated 30th December, 2002 passed by the learned Additional Collector shows that he has not adjudicated upon the rights claimed by the parties. He has observed that as the Petitioners are claiming to be the agricultural tenants in respect of the said land, they must get their right established by taking out proper proceedings under said Act of 1948. It is obvious from the order passed by the Tahsildar that from 1983-84 onwards, the names of the Petitioners were not appearing in the cultivation column of the revenue records in respect of the said land and an Application was made by the Petitioners for the first time on 23rd April, 1987 praying that their names be shown in the cultivation column from the year 1983-84 onwards.

6. It is well settled position of law that in proceedings under the Maharashtra Land Revenue Code, 1966 relating to entries in the revenue records, the rights of the parties as regards immovable property are never decided. The orders passed by the authorities under the said Code are never binding on a civil Court while deciding a civil suit. A civil Court can always decide relevant issues independently of the orders passed by the authorities under the said

Code. Notwithstanding the impugned orders, the Petitioners can always establish that they are the agricultural tenants in possession of the said land by filing appropriate proceedings. As the rights between parties are not decided by the impugned orders, this is not a fit case to interfere in extra-ordinary jurisdiction under Article 227 of the Constitution of India. Therefore, the Petition is not entertained and the same is rejected. It is made clear that all contentions of the parties in pending civil suit are expressly kept open.

JUDGE